

**STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION DIVISION**

**APPLICATION OF APACHE CORPORATION
FOR COMPULSORY POOLING AND
APPROVAL OF A HORIZONTAL SPACING
UNIT FOR A POTASH DEVELOPMENT
AREA AND PILOT PROJECT,
EDDY COUNTY, NEW MEXICO**

Case Nos. 21489-21491

**APPLICATION OF MEWBOURNE OIL
COMPANY FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO**

Case Nos. 21361 - 21364

**APPLICATION OF ASCENT ENERGY,
LLC FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO**

Case Nos. 21393 - 21394

**APACHE CORPORATION'S BRIEF REGARDING THE
DIVISION'S AUTHORITY TO DISMISS AND TO PROVIDE A STATUS UPDATE**

Pursuant to the Hearing Examiner's order at the September 21, 2023 hearing, Apache Corporation ("Apache") submits this brief regarding the Division's authority to dismiss the above captioned cases (the "Competing Cases"), as well as to provide a status update. The Competing Cases involve a dispute regarding plans to develop lands in the Designated Potash Areas located in the NW/4 of Section 28, Township 20 South, Range 30 East, Eddy County, New Mexico. Apache proposed east-west spacing unit and wells, covering the N/2 of Sections 28, 20, and the NW/4 of Section 30, whereas Ascent Energy, LLC ("Ascent") and Mewbourne Oil Company ("Mewbourne") have filed applications that proposed north-south spacing units, covering the W/2 of Sections 28 and 33. The current status is that Apache, Mewbourne, and Ascent have competing applications, with the area of overlap being the NW/4 of Section 33. Additionally there are stayed *de novo* Case Nos. 21277, 21278, 21279 and 21280 before the Oil Conservation Commission seeking review of Order R-21258 which granted Ascent's pooling applications for Bone Spring

and Wolfcamp north-south spacing units underlying the W/2 W/2 of Sections 28 and 33. The Commission issued orders in those cases providing that “[t]he hearings in these matters are stayed until all competing applications are heard by the Division or are otherwise resolved.” See OCC Orders R-21454 and R-21454-A.

Under the Oil and Gas Act, the Division likely has the authority to dismiss the Competing Cases. The Act provides that: “In the absence of any limiting order, an examiner appointed to hear any particular case *shall have the power to regulate all proceedings* before him and *to perform all acts and take all measures necessary or proper for the efficient and orderly conduct of such hearing*” and “shall cause a complete record of the proceeding to be made and transcribed and shall certify the same to the director of the division for consideration together with the report of the examiner and his recommendations in connection therewith.” NMSA 1978, § 70-2-13.

The rules governing a Division hearing examiner’s power similarly state that the Division examiner “shall have full authority to hold hearings” and “shall have the power to perform all acts and take all measures necessary and proper for the hearing’s efficient and orderly conduct.” Rule 19.15.4.19 NMAC.

Given that the Act and its implementing regulations confirm that a Division hearing examiner has “the power to perform all acts and take all measures necessary and proper for the hearing’s efficient and orderly conduct,” the Hearing Examiner appears to have jurisdiction to dismiss the Competing Cases, assuming that the Division Director ratifies the dismissal, unless the Commission’s Order Nos. R-21454 and R-21454-A are considered a limiting order under Section 70-2-13. See Rule 19.15.4.19 NMAC. The answer would appear to depend on whether dismissal of the cases without prejudice to the length of time they have been pending was contemplated by the Commission’s by the “otherwise resolved” language in its stay order.

Although the Hearing Examiner has authority to dismiss all of the Competing Cases, in Apache's opinion, the Hearing Examiner should exercise that authority to dismiss the Ascent cases, Case Nos. 21393-21394, as moot because MRC Permian Company ("MRC"), Ascent's successor-in-interest,¹ has taken several actions that are incompatible with Ascent's development plan in the Competing Cases. Specifically, MRC has taken actions that evidence its intent to develop its acreage using lay down wells (east-west) instead of stand up wells (north-south). *See* MRC Potash Area Development Area ("PDA"), proposed in June 2023, a copy of which is attached hereto as Exhibit "A." Indeed MRC has recently filed applications proposing east-west spacing units for its Alyson wells within the PDA, which were heard on September 7, 2023.² MRC's Alyson cases proposed wells in spacing units covering the S/2N/2 of Section 33 and the S2/NE4 of Section 32, Township 20 South, Range 30 East, Eddy County, New Mexico. In other words, MRC is proposing *east-west* units that include Section 33, which preclude MRC from developing the previously proposed north-south units at issue in these cases and the cases pending before the Commission on *de novo* review. MRC also rescinded the previously proposed Anvil north-south PDA which included the wells at issue in the Ascent cases. *See* Matador Withdrawal of Anvil Development Area, August 14, 2023 Letter to BLM, attached as Exhibit "B". MRC has further proposed a new east-west PDA, covering, in part, Section 33 and the E/2 of Section 32, Township 20 South, Range 30 East. As a result, Ascent's applications are moot and should be dismissed.

In addition, MRC's plans have, in effect, essentially rendered Mewbourne Oil Company's competing applications irrelevant because it is difficult to see how Mewbourne can drill north-south wells on Section 33, when Matador is proposing east-west wells through that same section.

¹ Ascent notified the other parties to these cases that MRC is Ascent's successor-in-interest to these cases. Neither Ascent nor MRC has filed a pleading to substitute MRC as the applicant in the Ascent cases.

² MRC case numbers 23746 to 23753.

MRC's actions of rescinding the proposed north-south PDA, proposing a new east-west PDA and pooling east-west units across portions of the acreage that Ascent proposed to dedicate to the north-south units establish that MRC does not intend to develop north-south units. As a result, even if the Hearing Examiner determines not to dismiss the Competing Applications due to the pendency of the Commission stay, the Hearing Examiner should dismiss Ascent cases 21393-21394 as moot.

Only Apache's applications propose east-west wells. Now that MRC has proposed east-west wells, neither Ascent nor Mewbourne's applications are still viable, and, as a result, should be dismissed, leaving the Apache cases pending before the Division.

Respectfully submitted,

MODRALL, SPERLING, ROEHL, HARRIS
& SISK, P.A.

By: /s/ Deana Bennett

Earl E. DeBrine, Jr.

Deana Bennett

Post Office Box 2168

500 Fourth Street NW, Suite 1000

Albuquerque, New Mexico 87103-2168

Telephone: 505.848.1800

earl.debrine@modrall.com

deana.bennett@modrall.com

Attorneys for Apache Corporation

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of October 2023, I served a true and correct copy of the foregoing on the following counsel of record by electronic mail:

Dana S. Hardy
Jaclyn M. McLean
P.O. Box 2068
Santa Fe, NM 87504-2068
Phone: (505) 982-4554
dhardy@hinklelawfirm.com
jmclean@hinklelawfirm.com
Counsel for Mewbourne Oil Company

Sharon T. Shaheen
Ricardo S. Gonzales
P.O. Box 2307
Santa Fe, NM 87504-2307
Phone: (505) 986-2678
sshaheen@montand.com
rgonzales@montand.com
Counsel for Colgate Production, LLC

Matador Resources Company
c/o Kyle Perkins
5400 LBJ Freeway, Suite 1500
Dallas, TX 75240
kperkins@matadorresources.com

Matthew M. Beck
Peifer, Hanson, Mullins & Baker, P.A.
20 First Plaza, Suite 725
Albuquerque, New Mexico 87102
Phone: (505) 247-4800
mbeck@peiferlaw.com
Counsel for Jalapeno Corporation

Ernest L. Padilla
Padilla Law Firm, P.A.
Post Office Box 2523
Santa Fe, NM 87504
Phone: (505) 988-7577
padillalaw@qwestoffice.net
Counsel for EOG Resources, Inc.

MODRALL, SPERLING, ROEHL, HARRIS
& SISK, P.A.

By: /s/ Deana Bennett
Deana Bennett

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Matador Production Company

One Lincoln Centre • 5400 LBJ Freeway • Suite 1500 • Dallas, Texas 75240

Cell 806.282.6846 Office 972.619.4336

[hawks holder@matadorresources.com](mailto:hawks	holder@matadorresources.com)

Bureau of Land Management

June 1, 2023

RECEIVED

SENT VIA CERTIFIED MAIL

JUN - 5 2023

To: Affected Parties of the Alyson Development Area
(See attached address list)

**Carlsbad Field Office
Carlsbad, NM**

Re: Designation of Development Area
Alyson Development Area
All of Section 33 and the E/2 of Section 32, T20S-R30E
Eddy County, New Mexico

Dear Sir or Madam:

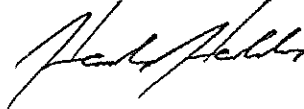
Matador Production Company ("Matador") has proposed a Development Area that falls within the Designated Potash Area in the above described lands that may affect your leasehold and surface estates. Please see the enclosed plat(s) for the location of Matador's proposed Alyson Development Area, and Matador's initial development wells. The proposed Alyson Development Area includes all depths within Section 33 and the E/2 of Section 32, Township 20 South, Range 30 East, with Matador's initial target being in the Bone Spring and Wolfcamp formations.

This letter serves notice of the proposed action(s). You have thirty (30) calendar days from the receipt of this letter to contact the BLM if you would like to express interest in collaborating with the proposal or to protest the establishment of the proposal. If you would like to collaborate with or protest the establishment of the Alyson Development Area, please respond to Jim Rutley (jrutley@blm.gov) at the Bureau of Land Management, Carlsbad Field Office, 620 East Greene Street, Carlsbad, NM 88220.

Please be aware that once established, a Development Area could affect your operating rights; therefore, your timely participation in this process is required. Please contact me should you have any concerns or questions.

With kind regards,

MATADOR PRODUCTION COMPANY



Hawks Holder
Landman

Enclosures

Exhibit A

Matador Production Company's Development Plan

Alyson 3332 Fed Com #111H

- SHL: NE/4NE/4 of 33-20S-30E
- First Take Point: 100' FEL & 660' FNL of Section 33, Township 20 South, Range 30 East
- Last Take Point: 2638' FEL and 660' FNL of Section 32, Township 20 South, Range 30 East
- BHL: NW/4NE/4 of 32-20S-30E
- Target: Bone Spring

Alyson 3332 Fed Com #121H

- SHL: NE/4NE/4 of 33-20S-30E
- First Take Point: 100' FEL & 660' FNL of Section 33, Township 20 South, Range 30 East
- Last Take Point: 2638' FEL and 660' FNL of Section 32, Township 20 South, Range 30 East
- BHL: NW/4NE/4 of 32-20S-30E
- Target: Bone Spring

Alyson 3332 Fed Com #122H

- SHL: NE/4NE/4 of 33-20S-30E
- First Take Point: 100' FEL & 1980' FNL of Section 33, Township 20 South, Range 30 East
- Last Take Point: 2638' FEL and 1980' FNL of Section 32, Township 20 South, Range 30 East
- BHL: SW/4NE/4 of 32-20S-30E
- Target: Bone Spring

Alyson 3332 Fed Com #123H

- SHL: NE/4NE/4 of 33-20S-30E
- First Take Point: 100' FEL & 1980' FSL of Section 33, Township 20 South, Range 30 East
- Last Take Point: 2638' FEL and 1980' FNL of Section 32, Township 20 South, Range 30 East
- BHL: NW/4SE/4 of 32-20S-30E
- Target: Bone Spring

Alyson 3332 Fed Com #124H

- SHL: NE/4NE/4 of 33-20S-30E
- First Take Point: 100' FEL & 660' FSL of Section 33, Township 20 South, Range 30 East
- Last Take Point: 2638' FEL and 660' FSL of Section 32, Township 20 South, Range 30 East
- BHL: SW/4SE/4 of 32-20S-30E
- Target: Bone Spring

Alyson 3332 Fed Com #201H

- SHL: NE/4NE/4 of 33-20S-30E
- First Take Point: 100' FEL & 660' FNL of Section 33, Township 20 South, Range 30 East
- Last Take Point: 2638' FEL and 660' FNL of Section 32, Township 20 South, Range 30 East
- BHL: NW/4NE/4 of 32-20S-30E
- Target: Wolfcamp

Enclosures

Alyson 3332 Fed Com #202H

- SHL: NE/4NE/4 of 33-20S-30E
- First Take Point: 100' FEL & 1980' FNL of Section 33, Township 20 South, Range 30 East
- Last Take Point: 2638' FEL and 1980' FNL of Section 32, Township 20 South, Range 30 East
- BHL: SW/4NE/4 of 32-20S-30E
- Target: Wolfcamp

Alyson 3332 Fed Com #203H

- SHL: NE/4NE/4 of 33-20S-30E
- First Take Point: 100' FEL & 1980' FSL of Section 33, Township 20 South, Range 30 East
- Last Take Point: 2638' FEL and 1980' FNL of Section 32, Township 20 South, Range 30 East
- BHL: NW/4SE/4 of 32-20S-30E
- Target: Wolfcamp

Alyson 3332 Fed Com #204H

- SHL: NE/4NE/4 of 33-20S-30E
- First Take Point: 100' FEL & 660' FSL of Section 33, Township 20 South, Range 30 East
- Last Take Point: 2638' FEL and 660' FSL of Section 32, Township 20 South, Range 30 East
- BHL: SW/4SE/4 of 32-20S-30E
- Target: Wolfcamp

Enclosures

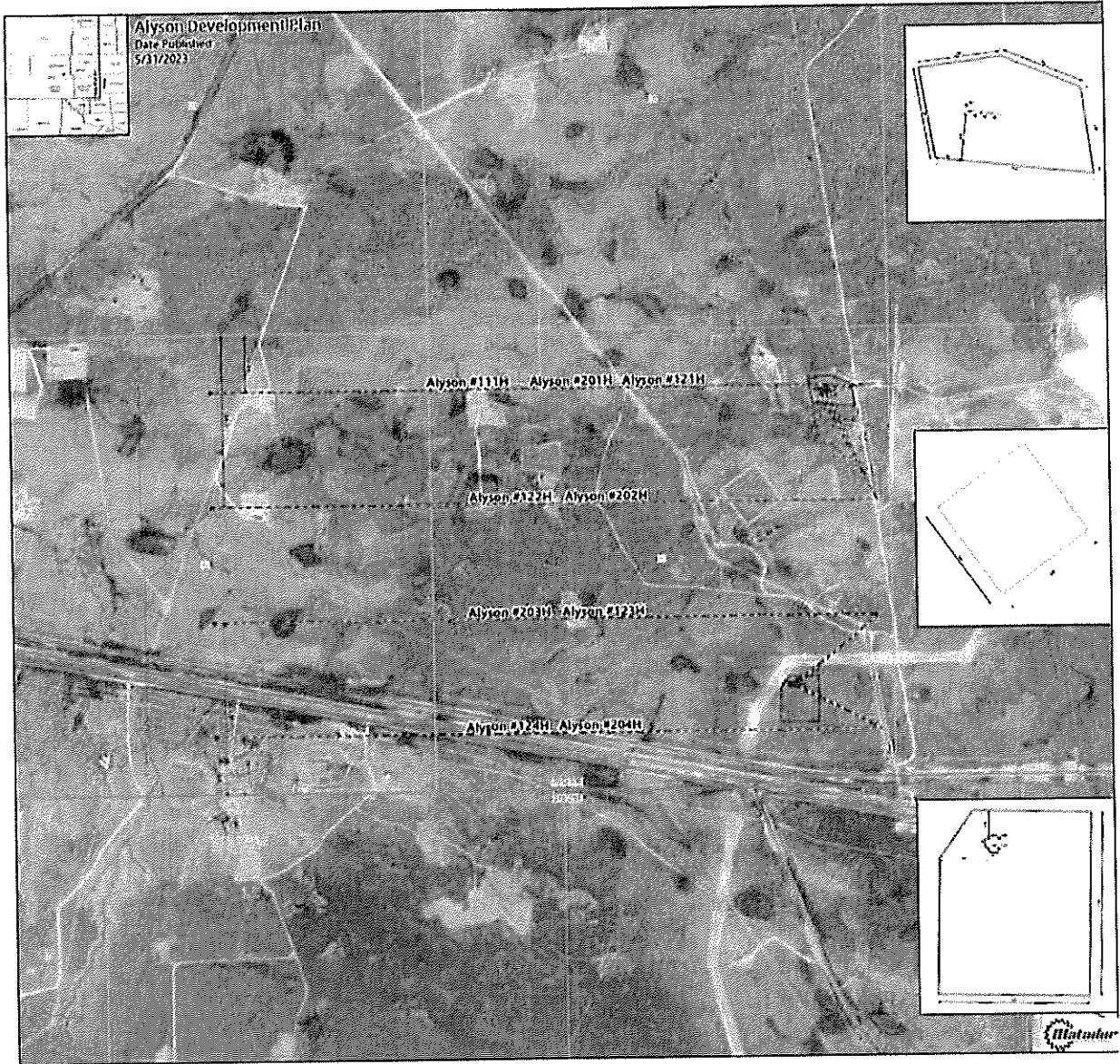
ALYSON DEVELOPMENT AREA
AFFECTED PARTIES

Company	Address	City, State, Zip
BLM - Carlsbad Field Office	620 E. Greene Street	Carlsbad, NM 88220
NMSLO – Santa Fe Office	310 Old Santa Fe Trail	Santa Fe, NM 87504
Intrepid Potash - New Mexico LLC	1996 Potash Mines Road	Carlsbad, NM 88220
Intrepid Potash Company	707 17th Street; Suite 4200	Denver, CO 80202
Mewbourne Oil Company	500 W Texas Ave; #1020	Midland, TX 79701
Veritas Permian Resources III, LLC	P.O. Box 10850	Ft. Worth, TX 76114
Chief Capital O&G II, LLC	8111 Westchester Drive, Suite 900	Dallas, TX 75225
Occidental Permian, LP	5 Greenway Plaza, Suite 110	Houston, TX 77046
Jalapeno Corporation	P.O. Box 1608	Albuquerque, NM 87103
Yates Energy Corporation	P.O. Box 2323	Roswell, NM 88202
*Twin Wells Ranch LLC	PO Box 3175	Carlsbad, NM 88221

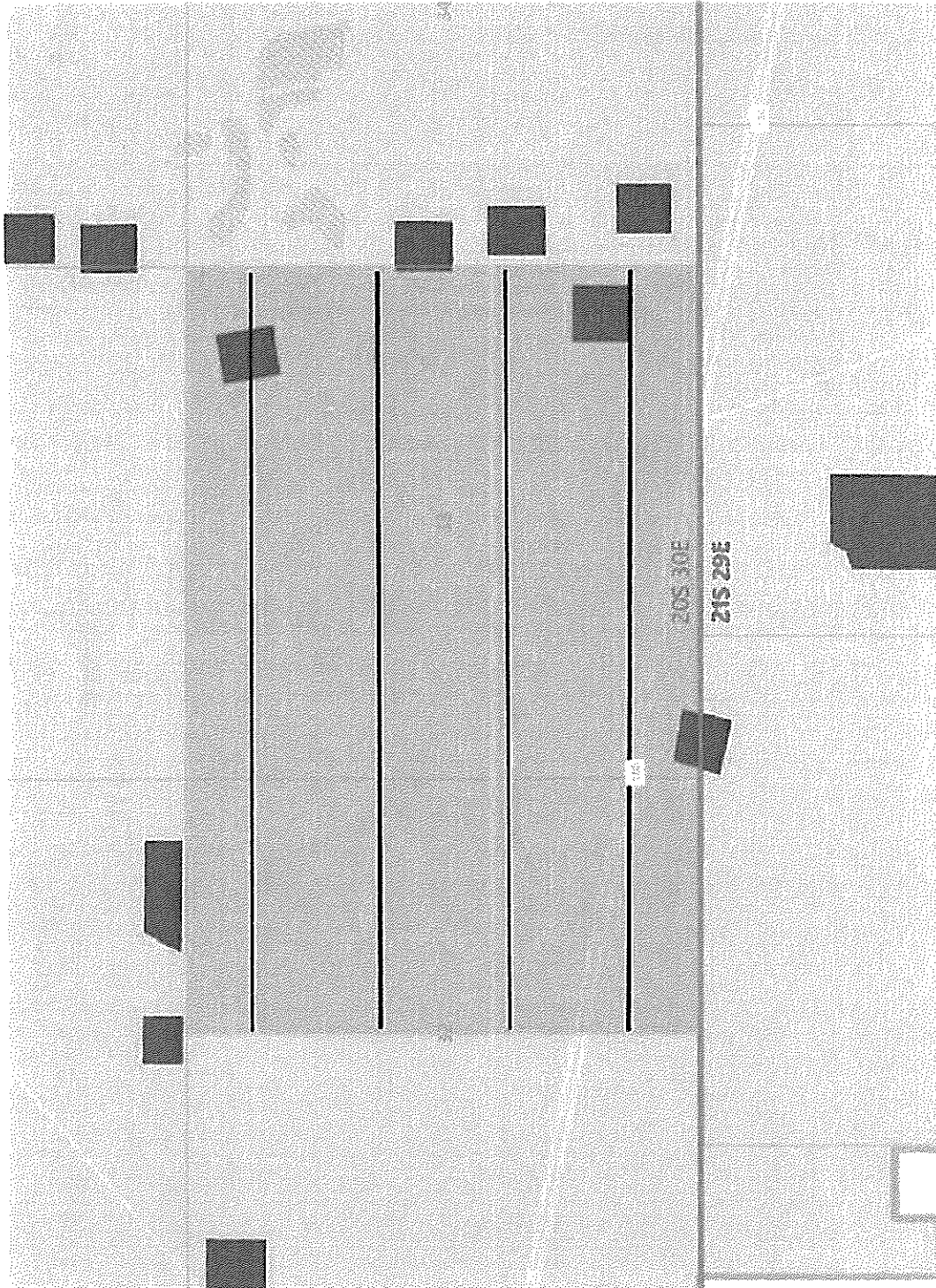
*Grazing Tenants of BLM Grazing Allotments

Enclosures

Matador's Alyson Development Area



Enclosures



Enclosures

Matador Production Company

One Lincoln Centre • 5400 LBJ Freeway • Suite 1500 • Dallas, Texas 75240

Telephone 972.371.5241 • Fax 972.371.5201

spryor@matadorresources.com

Sam Pryor
Vice President-Federal Lands

August 14, 2023

Via Certified Mail

Bureau of Land Management-Carlsbad Field Office

Attn: Mr. James "Jim" Rutley

620 E. Greene Street

Carlsbad, NM 88220-6292

Re: Matador's Withdrawal of the Anvil Development Area

Dear Mr. Rutley:

Please accept this letter as Matador's formal withdrawal of its Anvil Development Area, covering the W/2 of Sections 33 and 28, Township 20 South, Range 30 East.

If you have any questions about this matter, please feel free to contact me at (972) 371-5241 or via email at spryor@matadorresources.com.

With kind regards,
Matador Production Company



Sam Pryor

Exhibit B